

REMARKS

Claims 1-23 are currently in the application. Claims 1-23 have been rejected by the Examiner. Applicant has amended Claims 8, 15-20, and 22-23 and the specification as set forth above, and added new Claims 24-41. None of the claim amendments, new claims, or specification amendments are narrowing of the scope of the claims now pending, and unless otherwise stated herein, none are made for reasons related to patentability of the present invention. As a result of the amendments and in view of the following remarks, Applicant respectfully submits the application is in form for immediate allowance.

Drawing Objections

The drawings have been objected to by the Examiner for informalities including element numbers shown do not match with numbers from the specification, and because they fail to show or label one or more elements numbered and identified in the specification. Proposed amendments to the drawings (2 copies with proposed changes in red ink) are submitted herewith as well as certain amendments to the specification that are intended to be responsive to each of the Examiner's objections. No new matter is added. Applicant respectfully requests that each of the objections on these bases be withdrawn.

Specification

The Examiner has objected to the specification because of certain cited informalities. The specification has been amended as set forth above to overcome the cited informalities and to be

consistent with the claims and drawings as amended. As a result, Applicant respectfully requests that the objections on this basis be withdrawn.

Claim Rejections - §103

Each of the claims has been rejected under § 103(a) as being unpatentable over Kirtley in view of either Darley et al. (Claims 1-8, 10, 11, 13, 15-21, and 23), Darley et al. and McTeigue et al. (Claim 9), Darley et al. and O'Heir (Claims 12 and 22), and Darley et al. and Gray et al. (Claim 14). In each case, the primary reference for the cited obvious combination/modification of prior art is Kirtley. Applicant respectfully submits that the Examiner has failed in each instance to establish a prima facie case of obviousness because the primary reference cited is not a prior art reference with respect to the application. As a result, Applicant respectfully requests that the Examiner reconsider and withdraw each and every rejection made on this basis.

On page 1, in the paragraph starting on line 3, Applicant has made a claim of domestic priority based on a provisional patent application filed August 18, 2000 having serial number 60/226,011. The Examiner has indeed acknowledged such claim, according to line 15 of the Office Action Summary provided with this Office Action.

The effective prior art date for Kirtley, which is a U.S. patent application publication and not an issued patent, is determined by §102(e)(1), and comprises its filing date as an application, provided that such date is before the date of invention by Applicant. If not before Applicant's invention date, the reference is not prior art. The filing date of the Kirtley application is June 22, 2001, which is over 10 months after Applicant's claimed priority date.

As a result of the foregoing, Kirtley is unavailable as a prior art reference that is permitted to be the basis of claim rejections set forth in this case. There being no other permissible references provided as the basis of any claim rejections, the Examiner has made no prima facie case of obviousness supported by the references, and each of the rejections should be withdrawn.

For all of the reasons stated above, Applicant respectfully submits that the application as amended is in form for immediate allowance upon examination of the amendments. Applicant respectfully solicits the prompt issuance of a Notice of Allowance.

Respectfully submitted,

David A. Lundy
Reg. No. 22,162

KD_IM-503729_1